

### REMARKS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments, and the following remarks.

The amendments to this patent application are as follows. Claims 2 and 3 have been cancelled without prejudice, and the subject matter thereof has been incorporated into amended claim 1. Dependent claims 12 and 14 have been amended to identify the active ingredient in the product sold under the recited trademarks or tradenames.

The Specification has been amended on page 27 in order to recite the active ingredient which is found in each of the products represented by the trademarks: BELSIL®, ARLACEL®, HOSTACERIN®.

The Trademark BELSIL® is used for polyorganosiloxanes for cosmetical purposes. The names for the active ingredients of the Trademarks cited in the application are as follows:

BELSIL® = Silicone Polyglucoside.

BELSIL® CM 1000 = mixture of Cyclopentasiloxane and Dimethiconol.

BELSIL® DM 1 Plus = Dimethicone.

BELSIL® PDM 20 = Phenyl Trimethicone.

BELSIL® SPG 128 = mixture of Caprylyl Dimethicone Ethoxy Glucoside and Cyclopentasiloxane.

ARLACEL® 165 = mixture of Glyceryl Stearate and PEG-100 Stearate. PEG 100 Stearate is made by combining natural oils with stearic acid to form a water-soluble ester. PEG stands for polyethylene glycol.

HOSTACERIN® = Polyglyceryl-2-sesqui-isostearate.

The objected to phrases in claim 8 are examples-for components that may be present additionally in a preparation according to claim 1. These components are not indefinite. Instead, they are clearly defined in the art as can be seen from the following, because each is art recognized terminology that would be understood by one skilled in the art.

**Antioxidants:** Antioxidants are substances that may protect cells from the damage caused by unstable molecules known as free radicals. Free radical damage may lead to cancer. Antioxidants interact with and stabilize free radicals and may prevent some of the damage free radicals otherwise might cause. Examples of antioxidants include beta-carotene, lycopene, vitamins C, E, and A, and other substances. This definition is given by the National

Cancer Institute, U.S. National Institute of Health and can be found on the web page: (See <http://www.cancer.gov/newscenter/pressreleases/antioxidants>).

**Bactericides:** A Bactericide is any drug that destroys bacteria or inhibits their growth. This definition is given by the Farlex, the free dictionary (See <http://www.thefreedictionary.com/bactericide>).

**Additives:** An additive is a substance added in small amounts to something else to improve, strengthen, or otherwise alter it. This definition is given by the American Heritage Dictionary (See <http://www.answers.com/topic/additive>).

**Preservatives:** Chemical agents that inhibit the growth of microorganisms in creams and cosmetic products, preservatives are necessary for a product to be safe to use. This definition can be found in the Internet (See <http://www.celltechpersonalcare.com/glossary.jsp>).

**Stabilizers:** Stabilizers increase both virgin resin's and post-consumer plastic's strength and resistance to degradation. Heat stabilizers provide resistance to thermal degradation during periods of exposure to elevated temperatures. Thermal degradation

is reduced not only during processing but also during the useful life of the finished products. Light stabilizers are used in a variety of resins to limit the effects of sunlight or other sources of ultra violet radiation. This definition can be found in the Internet (See [http://www.google.de/search?hl=de&q=define%3AStabilizers&meta=](http://www.google.de/search?hl=de&q=define%3AStabilizers&meta=))).

**Fillers:** Fillers are materials which are added to resins or gel coats for special flow characteristics, to extend volume, or to add strength to the article being produced. This definition can be found in the Internet (See <http://www.google.de/searchhl=de&q=define%3AFillers&meta=>).

**Alcohol:** Alcohol is any organic compound in which a hydroxyl group (-OH) is bound to a carbon atom of an alkyl or substituted alkyl group. The general formula for a simple acyclic alcohol is  $C_nH_{2n+1}OH$ . This definition can be found in the Internet (See <http://en.wikipedia.org/wiki/Alcohol>).

**Salt:** A salt is any ionic compound composed of cations (positively charged ions) and anions (negative ions) so that the product is neutral (without a net charge). This definition can be found in the Internet (See <http://en.wikipedia.org/wiki/Salts>).

**Humectant agents:** Humectants attract water from viable skin layers in to the stratum corneum. The natural humectants of the dermis include – glycosaminoglycans (hyaluronic acid). Topically applied humectants draw water from deeper dermis, and rarely from environment. Moisturizers can be prepared from combining occlusive and humectants to rehydrate skin optimally. Humectants may allow the skin to feel smoother by filling the holes in the stratum corneum. This definition can be found in the Internet (See [http://www. medindia. net/patients/patientinfo/skindisorderprint htm](http://www.medindia.net/patients/patientinfo/skindisorderprint.htm)).

**Consistency-imparting agents:** The solid foamed compositions preferably contain additional consistency-imparting agents, which are waxy substances that are solid at 25°C. and/or thickeners. This definition can be found in the Internet (See <http://www.freshpatents.com/Stablefoamed compositions-dt20051006ptan20050222001.php>).

**Sunscreen filters:** Sunscreen filters out most UV radiation before it reaches the skin. The ingredients in sunscreen absorb UV radiation and can also scatter or reflect UV radiation away from the body, depending on the type. Broad spectrum sunscreen filters both UVA and UVB radiation. This definition can be found in the Internet (See

<http://www.sunsmart.com.au/browse.asp?containerID=1537>).

**Self-tanning agent:** Sunless tanning (also known as self tanning, or UV-free tanning refers to applying chemicals on the skin to produce an effect similar in appearance to a traditional suntan. According to the American Academy of Dermatology, the most effective products available are sunless tanning or self tanning lotions that contain dihydroxyacetone (DHA) as the active ingredient. The tan is not a dye, stain or paint, but a chemical reaction between the DHA and the amino acids in the dead layer on the skin surface. This is similar to a reaction which is well known to food chemists and is called the Maillard reaction. This refers to the browning process during food manufacturing and storage. It does not involve skin pigmentation nor does it need UV exposure to initiate the color change. The reaction is non-toxic and skin safe, without the damage associated with UV exposure. The tan is temporary and will fade gradually over 3 to 10 days. Some products use Erythrulose combined with the DHA. Erythrulose works identically to DHA on the skin surface, but develops more slowly. The two chemicals used together may produce a longer lasting sunless tan. This definition can be found in the Internet (See [http://en.wikipedia.org/wiki/Fake\\_tan](http://en.wikipedia.org/wiki/Fake_tan)).

**Gel-formers ,Thickening agents, or thickeners:** Thickening agents, or thickeners, are substances which, when added to a mixture, increase its viscosity without substantially modifying its other properties, such as taste. They provide body, increase stability, and improve suspending action. This definition can be found in the Internet (See <http://en.wikipedia.org/wiki/Thickeningagent>).

It is based upon these citations which are believed to be sufficient to convince any person skilled in the art that all these terms are art recognized and thus clearly define the metes and bounds of the patent protection desired.

For all these reasons, all the claims are firmly believed to be in complete compliance with all the requirements of 35 U.S.C. 112. Withdrawal of this ground of rejection is respectfully requested.

The 102 rejection over *Wimmer et al* US '510 is traversed based upon the following: *U.S. Patent No. 6,025,510 (Wimmer et al)* discloses a process for stabilizing and dispersing vegetable oils which contain polyunsaturated fatty acid radicals. These polyunsaturated fatty acid radicals are carboxylic acid derivatives (esters), but not polyunsaturated fatty acids. This

can clearly be seen from the references cited in the Office Action. Table 1 as well as the lines 20 to 45 in column 3 do not disclose free acids but disclose these acids as part of Triacylglycerines. Thus, this reference does not disclose vitamin F or polyunsaturated fatty acids, but instead discloses vegetable oils which comprise polyunsaturated fatty acid esters as part of a Triacylglycerine. Also all examples use complexes of CD and Triacylglycerines comprising the cited acids as part of the molecule. Hence, this patent does not disclose the use of the claimed polyunsaturated fatty acids per se, but only discloses it as an ester group in the oils cited. A triacylglycerine as complexed in this patent is completely different from the free acid as complexed in the present invention as claimed. Because the complex of US 510 is different from the complex of the present invention, the mixtures, preparations and cosmetic formulations comprising this complex are novel and patentable over this prior art patent.

The present invention is directed to, in part, a cosmetic or dermatologic preparation or formulation comprising...and thus claim 1 recites a "composition comprising..." The Office Action contends that the teachings of the *Qi U.S. Patent No. 6,638,557 B2* are relevant to claim 1. For this reason, claim 1 was amended to include the language of claim 2, as well as the features of



claim 3 into this new independent claim 1 and to delete claim 2 and claim 3. By this amendment, the *Qi U.S. Patent No. 6,638,557 B2* is no longer relevant for a rejection of amended claim 1 under 35 U.S.C. 102. In addition, the rejection under 35 U.S.C. 102 based on *U.S. Patent No. 6,638,557 B2* against the process claims 9 and 10 has now been overcome also. This is because these claims are directed to a process for preparing a preparation according to claim 1 and claim 1 as amended is now novel and nonobvious over *U.S. Patent No. 6,638,557 B2*.

The *Qi U.S. Patent No. 6,638,557 B2* cited by the Patent Examiner discloses a multi-component encapsulation matrix to make a dry stable consumable oil composition using fish oil. This is entirely different from the claimed cosmetic or dermatologic preparation or formulation. However, in order to clearly distinguish over *Qi*, claim 1 recites the subject matter of claims 2 and 3, such that claim 1 now recites ingredients as well as proportions and concentrations of ingredients that are neither taught nor suggested by the prior art.

Therefore, claims 1, 9, and 10 as amended recite subject matter which is novel and nonobvious over all the cited prior art.

The rejection under 35 U.S.C. 103 over the *Wimmer U.S. 6,025,510* is respectfully traversed as follows.

As discussed above, the *Wimmer U.S. '510* does not teach complexes of polyunsaturated fatty acids with CD, but instead teaches complexes of triacylglycerines with CD. These complexes are completely different and therefore cannot render obvious any molar ratios of complexes of polyunsaturated fatty acids as claimed in the present invention.

All the other references cited by the Patent Examiner do not even mention a CD complex. Instead, they all mention Cyclomethicones which are silicone oils. Therefore, they are not relevant for any teachings regarding cosmetic or dermatologic preparations or even only compositions comprising CD complexes. Since claim 1 has been amended as discussed above, the only possible objection against amended claim 1 is the rejection based on *Wimmer '510*. However, as explicitly discussed above, this is not relevant because *Wimmer* teaches different CD complexes which do not at all overlap with the claimed complexes recited by all the claims.

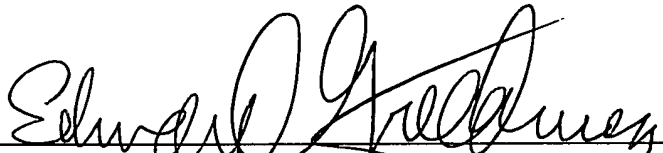
For all these reasons, none of the prior art references provide an identical disclosure of the claimed invention. Hence,

the present invention is not anticipated under 35 U.S.C. 102, but is patentable under 35 U.S.C. 103, over all the prior art applied by the Patent Examiner.

Withdrawal of these grounds of rejection is respectfully requested.

A prompt notification of allowability is respectfully requested.

Respectfully submitted,



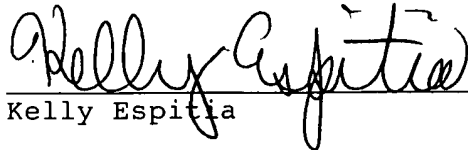
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 27, 2006.

  
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